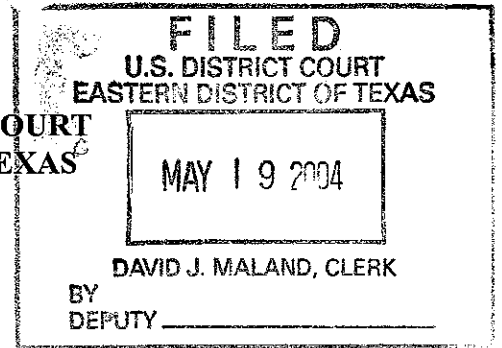


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION



UNITED STATES OF AMERICA, §
§
Plaintiffs, §
§
HEARNE INDEPENDENT SCHOOL §
DISTRICT, §
§
Plaintiff-Intervenor, §
§
V. §
§
STATE OF TEXAS, ET AL., §
§
Defendants. §

CIVIL ACTION NO. 6:71-CV-5281

Before Judge JUSTICE

**TEXAS EDUCATION AGENCY'S OPPOSITION TO
THE UNITED STATES' MOTION FOR HEARING**

TO THE HONORABLE JUDGE JUSTICE:

Defendant, Texas Education Agency (TEA), responds as follows to the United States' motion for a July hearing on its Motion to Enforce Order Against Defendant Texas Education Agency and Motion for Permanent Injunction Against Defendant, Mumford Independent School District.

For almost a year, the parties engaged in discussions aimed at arriving at an agreed scheduling order in this case. *See Exhibit A.* The main point of disagreement was the timing of the trial. TEA consistently advised the parties that it could not present its case and/or prepare for trial before or during the special legislative session called to resolve the issue of school finance or before or during the trial set in the school finance litigation, Cause No. GV-100528; *West Orange-Cove Consolidated Independent School District, et al. v. Jim Nelson, Texas Commissioner of Education, et al.*, in the 250th Judicial District Court; Travis County, Texas, which until this week, was set for

trial on July 26, 2004.¹ The parties had numerous discussions on this matter. The United States was a participant in these discussions.

On January 21, 2004, counsel for Hearne ISD submitted to the Court a report of counsel that identified the unresolved scheduling issues, including the trial date. *See Exhibit A.* Subsequently, the undersigned counsel for TEA attempted again to reach consensus among the parties on a workable timetable for settlement discussions, discovery and trial.

Finally, shortly before the Court's scheduled status conference on March 4, 2004, the parties reached agreement on all deadlines in the case except for mediation. The United States was a party to all of these discussions.

The agreed schedule (with the exception of the mediation date) was presented to the Court at the status conference on March 4, 2004. After discussing the entire scheduling order, including the trial date, the Court verbally approved that schedule that day (subject to confirmation of a mediation date with Judge Jim Meyers in August 2004) and set trial for November 1, 2004.

On April 30, 2004, the parties submitted a fully-executed joint scheduling proposal to the Court, including an August 18, 2004, mediation date. *See Exhibit B.* The United States signed off on this schedule.

On April 8, 2004, the United States filed the two pending motions that it now asks the Court to set for hearing in July 2004, asserting that the issues it raises "are more discrete and narrowly defined than those raised by Hearne ISD" in Hearne's complaint in intervention and "should be

¹ The *West Orange Cove* trial has just been reset to August 9, 2004. It is expected to last 4-6 weeks. This two week extension does not ameliorate the undue burden the United States seeks to place on TEA by a July hearing date.

capable of resolution by mid-July.” It further contends that the issues raised by its motions “are discrete enough that TEA personnel would not be unduly taxed” by a July hearing.

The United States is mistaken. While Hearne has asserted more causes of action than the United States, both Hearne’s complaint in intervention and the United States’ motion to enforce the student transfer provisions of the Court’s Modified Order involve the same set of facts, documents, TEA actions, and TEA staff. Although the *legal* issues raised by Hearne may be more complex, the *factual* issues are essentially the same, requiring the same time, effort, and involvement of TEA staff to prepare TEA’s case and to do its job to assist the Court in understanding what actions have taken place relating to students transfers between Hearne ISD and Mumford ISD over a period of almost a decade.

TEA staff are stretched thin already by the monumental efforts required to address the demands of the ongoing special legislative session on school finance and prepare its defense in the massive *West Orange Cove* lawsuit. That TEA is having a difficult time defending this lawsuit is evidenced by the difficulties it has already had in filing a written response to the United States’ motion. The United States understates the impact on TEA if the parties are forced to a hearing prematurely in July.

The United States’ contention that the interests of the students in Hearne and Mumford would be best served by resolving the issues it raises before the beginning of the next school year ignores or overlooks several critical realities that TEA has explained many times: (1) the school districts have already taken most of the transfers they are going to take for 2004-2005 and have hired staff accordingly; (2) TEA will not receive information on this year’s (2003-2004) student attendance until October 2004, when the PEIMS reporting comes in; and (3) even were the Court to decide that

further funding should be withheld, TEA would not be able to begin withholding funds until January 2005, anyway, based on the fall enrollment information. Therefore, a July trial date would accomplish no more with regard to TEA's involvement than a November trial date.

Finally, TEA feels strongly, and has so stressed to the parties, that cooperative resolution of the issues raised in this case is in the best long- and short- term interest of the students of both Hearne and Mumford, and has repeatedly urged early settlement discussions in this case. TEA views a July hearing on what amounts to a trial on the merits as an undermining of the possibility of cooperative problem-solving for these neighboring districts and the TEA.

With due respect to this Court, TEA suggests that if the parties are free in July, their time may be better spent in mediation than at the courthouse. If those efforts fail, the Court has already offered the parties a November trial date.

For these reasons, TEA asks that the Court deny the United States' motion for hearing in July.

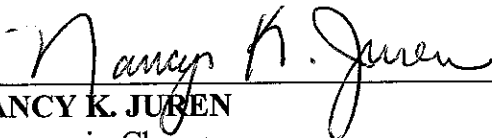
Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

BARRY R. McBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

JEFF L. ROSE
Chief, General Litigation Division



NANCY K. JUREN
Attorney-in-Charge

Texas Bar No. 11059300

INGRID K. HANSEN

Texas Bar No. 08929727

Assistant Attorney General

General Litigation Division

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

(512) 463-2120

(512) 320-0667 FAX

**ATTORNEYS FOR DEFENDANTS
STATE OF TEXAS and
TEXAS EDUCATION AGENCY**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Texas Education Agency's Opposition to the United States' Motion for Hearing has been sent via regular United States mail on the 14th day of May, 2004, to:

U. S. Department of Justice:

Javier M Gutzman
Attorney at Law
U.S. Department of Justice
10th & Pennsylvania, Rm. 7736
Washington, D.C. 20544

Mumford ISD:

David Feldman
Feldman & Rogers
5718 Westheimer Rd.
Houston, TX 77057

Hearne ISD:

Roger Hepworth
Henslee, Fowler, Hepworth
& Schwartz, L.L.p
916 Congress, Suite 800
Austin, Texas 78701

League of United Latin American Citizens:

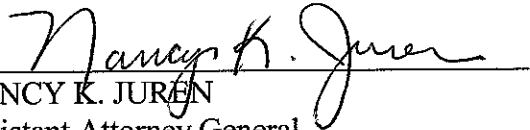
Nina Perales
David Hinojosa
Attorney at Law
MALDEF
140 E. Houston, Suite 300
San Antonio, TX 78205

NAACP:

Dennis Hayes
Attorney at Law
The National Association for the
Advancement of Colored People
4805 Mount Hope Dr.
Baltimore, MD 21215

American GI Forum:

Roger Rice / Peter Roos
Attorneys at Law
Meta, Inc.
240-A Elm St., Suite 22
Somerville, MA 02144


NANCY K. JUREN
Assistant Attorney General



Henslee Fowler
Hepworth & Schwartz LLP

ROGER D. HEPWORTH
RHEPWORTH@HIFHSLAW.COM

January 21, 2004

The Honorable William Wayne Justice
U. S. District Court, Eastern District
Tyler Division
211 West Ferguson Street
Tyler, Texas 75702

Re: Civil Action No. 6: 71-CV-5281 *United States, et al., v. State of Texas, et al.*;
In the United States District Court for the Eastern District of Texas Tyler Division.

Dear Judge Justice:

Enclosed are our attempts at agreeing on scheduling order dates in the above-referenced case. We initially had a scheduling conference in December and thought we had agreement, but there were disagreements about the wording and then another matter has come up with the TEA, so they are not in agreement with the date originally proposed. We were going to have our initial disclosures due fairly shortly, but with the wrangling back and forth, I don't know whether people have sufficient time to prepare those or not. I will presume you will set a new date for disclosures as well. There have been conversations back and forth among the attorneys, but we are no longer in agreement, apparently on any of these dates.

We therefore respectfully request a scheduling conference to get dates for a scheduling order. We would request that it be done by telephone. I would be happy to set up the conference call, if you would like.

I attach the originally proposed scheduling order, along with several pieces of correspondence from TEA, and an affidavit they have asked me to attach.

Thank you for your attention to this matter.

Sincerely,


Roger D. Hepworth

RDH:dw

Enclosure

05275-07 Judge Justice 01/21/04 (rdh)

Via Facsimile. (202) 514-8337

Javier M. Gutzman

Edward G. Caspar

U. S. Department of Justice
950 Pennsylvania Ave NW
Washington, D. C 20530

Via Facsimile: (512) 320-0667
Merle Hoffman Dover
Assistant Attorney General
General Litigation Division
P. O. Box 12548-Capitol Station
Austin, Texas 78711-2548

EXHIBIT

A

January 21, 2004
Page 2

Via Facsimile: (713) 960-6025
David M. Feldman
Carolyn Hanahan
Feldman & Rogers
5718 Westheimer Road
Houston, Texas 77057

FELDMAN & ROGERS, L.L.P.

COASTAL BANC PLAZA
3718 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77057
(713) 960-6000
TELECOPIER: (713) 960-6025

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Roger Hepworth	David M. Feldman
COMPANY:	DATE:
Henslee Fowler Hepworth & Schwartz	1/2/04
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
903/593-0193	2
PHONE NUMBER:	SENDER'S CASE MATTER NUMBER:
903/593-8902	TEX01/287
RE:	SENDER'S INITIALS:
U.S. of America, et al v. State of Tx, et al	CAR

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ FYI

NOTES/COMMENTS

This facsimile contains CONFIDENTIAL INFORMATION which may also be LEGALLY PRIVILEGED and which is intended only for the use of the addressee. If you are not the intended recipient of this facsimile, or are responsible for delivering it to the recipient, you are hereby notified that any dissemination or copying of this facsimile may be strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile to us at the above address via the postal service.

APPROVED:

Merle Hoffman Dover
Texas State Bar No. _____
Assistant Attorney General
General Litigation Division
P. O. Box 12548-Capitol Station
Austin, Texas 78711-2548
PH: (512) 463-2120
FAX: (512) 320-0667
Counsel for Defendants
STATE OF TEXAS AND TEXAS
EDUCATION AGENCY (TEA)

David M. Feldman
Texas State Bar No. 06886700
Carolyn Hanahan
Feldman & Roberts
5718 Weatherford Road
Houston, Texas 77057
Ph: (713) 960-6000
Fax: (713) 960-6025
COUNSEL FOR DEFENDANTS
MUMFORD INDEPENDENT SCHOOL DISTRICT

REPORT OF PARTIES' PLANNING MEETING
08575-03

PAGE 4



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2004

Via facsimile

Roger D. Hepworth
916 Congress, Suite 800
Austin, TX 78701

Re: Civil Action No. 6: 71-CV-5281

Dear Mr. Hepworth:

I have received your revised report. Your statement under #1 still does not adequately reflect what I expressed during the phone conference. I would like the statement to read:

TEA is opposed to this extremely expedited scheduling order. TEA will be unable to engage in discovery for the duration of a special session on school finance, should one be called. In the event of a special session, TEA requires that all discovery be abated during the duration of the special session and notes that all other discovery deadlines may need to be altered accordingly.

Please incorporate this statement as written.

Very truly yours,

Merle Hoffman Dover

cc: Sandy Lowe
Edward Caspar
David Feldman



**Henslee Fowler
Hepworth & Schwartz LLP**

AUSTIN DALLAS FORT WORTH HOUSTON MCALLEN SAN ANTONIO TYLER

ROGER D. HEPWORTH
RHEPWORTH@HFHSLAW.COM

January 7, 2004

Via Facsimile: (202) 514-8337
Javier M. Gutzman
Edward G. Caspar
U. S. Department of Justice
950 Pennsylvania Ave NW
Washington, D. C. 20530

Via Facsimile: (512) 320-0667
Merle Hoffman Dover
Assistant Attorney General
General Litigation Division
P. O. Box 12548-Capitol Station
Austin, Texas 78711-2548

Via Facsimile: (713) 960-6025
David M. Feldman
Carolyn Hanahan
Feldman & Rogers
5718 Westheimer Road
Houston, Texas 77057

Re: Civil Action No 6: 71-CV-5281 *United States, et al., v. State of Texas, et al.*;
In the United States District Court for the Eastern District of Texas Tyler Division.

Dear Counsel:

Enclosed please find an amended Report of Parties' Planning Meeting based on the most recent correspondence from Merle.

As you can see, I have requested a scheduling conference by telephone for everyone's convenience.

If you are in agreement with this, please sign in the appropriate place and fax it back to me. Thank you for your cooperation in this matter.

Sincerely,


Roger D. Hepworth

RDH:dw
Enclosure

08575-03 All Rights Reserved (rdh) 010704

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA, ET AL.
PLAINTIFFS,

V.

STATE OF TEXAS, ET AL.,
DEFENDANTS.

§
§
§
§
§
§
§

CIVIL ACTION No. 6:71-CV-5281

REPORT OF PARTIES' PLANNING MEETING

TO THE HONORABLE JUDGE OF SAID COURT:

1. **Attendees.** Pursuant to FED. R. CIV. P. 26(f), a meeting was held on December 18, 2003 by telephone conference and was attended by:

Roger D. Hepworth, Henslee, Fowler, Hepworth & Schwartz for Plaintiff Hearn Independent School District;

Edward G. Caspar, United States Department of Justice, for Plaintiffs United States of America;

Merle Hoffman Dover, Assistant Attorney General for Defendants State of Texas and Texas Education Agency; and

David M. Feldman, Feldman & Rogers for Defendants Mumford Independent School District.

The parties agreed to some dates as listed below but counsel for TEA requested the following language be inserted:

TEA is opposed to this extremely expedited scheduling order. TEA will be unable to engage in discovery for the duration of a special session on school finance, should one be called. In the event of a special session, TEA requires that all discovery be abated during the duration of the special session and notes that all other discovery deadlines may need to be altered accordingly.

Counsel for Heame ISD and Mumford ISD both feel the case needs to be tried and decided before school starts. Counsel originally agreed to trial in the first half of July. Counsel for TEA objects to trial right after the July 4th holiday. Since all counsel have not agreed to all dates, particularly abatement of the entire case if a special session is called, we request a scheduling conference. Since counsel are at various locations we request this be a telephonic hearing.

2. **Pre-Discovery Disclosures.** The parties will exchange by January 23, 2004 the information required by Fed. R. Civ. P. 26(a)(1).

3. **Discovery Plan.** The parties jointly propose to the court the following discovery plan:

Discovery will be needed on the following subjects:

- a. information relating to transfers of students to Mumford Independent School District;
- b. information relating to Texas Education Agency's involvement with student transfers of Mumford Independent School District and Heame Independent School District;
- c. other discovery relevant to claims in Original Petition.

All discovery commenced in time to be completed by April 30, 2004 by each party to any other party

Plaintiffs will designate experts by March 1, 2004.

Defendants will designate expert by April 1, 2004.

4. **Other Items.** The Parties request a conference by telephone with the court before entry of the scheduling order.

Plaintiffs should be allowed until February 2, 2004 to join additional parties and until February 2, 2004, to amend the pleadings;

Defendants should be allowed until February 12, 2004 to join additional parties and until February 12, 2004, to amend pleadings;

All potentially dispositive motions should be filed by June 4, 2004.

Settlement is unlikely, but if mediation is ordered, a May 14, 2004 deadline was agreed upon.

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due from Plaintiffs by June 15, 2004 and from Defendants by June 15, 2004

Parties should have ____ days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for trial by early July, 2004, (see TEA's objections) and at this time is expected to take approximately one to two weeks

Respectfully submitted,

Roger D. Hepworth
Texas Bar No. 09498980
V. Jay Youngblood
Henslee, Fowler, Hepworth & Schwartz
1116 Plaza Tower
110 N. College Avenue
Tyler, Texas 75702
Phone: (903) 593-8902
Fax: (903) 593-0193
COUNSEL FOR PLAINTIFFS
HEARNE INDEPENDENT SCHOOL DISTRICT

Javier M. Gutzman
Edward G. Caspar
U. S. Department of Justice
950 Pennsylvania Ave NW
Washington, D. C. 20530
PH: (202) 514-4092
FAX: (202) 514-8337
COUNSEL FOR PLAINTIFFS UNITED STATES
OF AMERICA

APPROVED:

Merle Hoffman Dover
Texas State Bar No. _____
Assistant Attorney General
General Litigation Division
P. O. Box 12548-Capitol Station
Austin, Texas 78711-2548
PH: (512) 463-2120
FAX: (512) 320-0667
Counsel for Defendants
STATE OF TEXAS AND TEXAS
EDUCATION AGENCY (TEA)

David M. Feldman
Texas State Bar No. _____
Carolyn Hanahan
Feldman & Rogers
5718 Westheimer Road
Houston, Texas 77057
Ph: (713) 960-6000
Fax: (713) 960-6025
COUNSEL FOR DEFENDANTS
MUMFORD INDEPENDENT SCHOOL DISTRICT

PAGE 4

FELDMAN & ROGERS, L.L.P.

COASTAL BANC PLAZA
5718 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77057
(713) 960-6000
TELECOPIER: (713) 960-6025

FACSIMILE TRANSMITTAL SHEET

TO:	Roger Hepworth	FROM:	David M. Feldman
COMPANY:	Henslee Fowler Hepworth & Schwartz	DATE:	1/9/04
FAX NUMBER:	903/593-0193	TOTAL NO. OF PAGES INCLUDING COVER:	2
PHONE NUMBER:	903/593-8902	SENDER'S CASE MATTER NUMBER:	TEX01/287
RE:	U.S. of America, et al. v. State of Tx., et al.	SENDER'S INITIALS:	CAR

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ FYI

NOTES/COMMENTS:

This facsimile contains CONFIDENTIAL INFORMATION which may also be LEGALLY PRIVILEGED and which is intended only for the use of the addressee. If you are not the intended addressee of this facsimile, or agent responsible for delivering it to the recipient, you are hereby notified that any dissemination or copying of this facsimile may be strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile to us at the above address via the postal service.


JAN-09-2004 FRI 02:05 PM HENSLEE FOWLER HEPWORTH FAX NO. 903 3 0193

P. 03

Javier M. Gutman
Edward G. Caspar
U. S. Department of Justice
950 Pennsylvania Ave NW
Washington, D. C. 20530
PH: (202) 514-4092
FAX: (202) 514-8337
COUNSEL FOR PLAINTIFFS UNITED STATES
OF AMERICA

APPROVED:

Merle Hoffman Dover
Texas State Bar No. _____
Assistant Attorney General
General Litigation Division
P. O. Box 12548-Capitol Station
Austin, Texas 78711-2548
PH: (512) 463-2120
FAX: (512) 320-0667
Counsel for Defendants
STATE OF TEXAS AND TEXAS
EDUCATION AGENCY (TEA)


David M. Feldman
Texas State Bar No. 06886700
Carolyn Hanahan
Feldman & Rogers
5718 Westheimer Road
Houston, Texas 77057
Ph: (713) 960-6000
Fax: (713) 960-6025
COUNSEL FOR DEFENDANTS
MUMFORD INDEPENDENT SCHOOL DISTRICT

REPORT ON PARTIES' PLANNING MEETING
08575-03

PAGE 4

01/09/2004 13:21 512-328-0077

OFC ATTY GEN:GLD

PAGE 02/84



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 9, 2004

Via facsimile: 708-9037
Roger D. Hepworth
916 Congress, Suite 800
Austin, TX 78701

Via facsimile: (202) 514-8337
Edward G. Caspar
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington D.C. 20530

Via facsimile: (713) 960-6025
David M. Feldman
Feldman & Rogers
5718 Westheimer Road
Houston, Texas 77057

Re: Civil Action No. 6: 71-CV-5281; *United States, et al. v. State of Texas, et al.*; In the United States District Court for the Eastern District of Texas, Tyler Division.

Dear Counsel:

Since our telephone conference of December 18, 2003, there has been an occurrence that directly effects the scheduling of this matter. On January 6, 2004, Judge Dietz set the school finance litigation for trial on July 26, 2004. This created a conflict for me, since I am the trial attorney for that litigation as well. My office was able to solve that problem by transferring this case to different attorneys, Nancy Juren and Ingrid Hansen. However, the problem is not so easily resolved for TEA. Many of the key people at TEA are essential witnesses in both matters. It will be virtually impossible for TEA to be involved in two major litigation matters simultaneously, not to mention the added difficulty presented by a special session on school finance, which is almost certainly going to happen.

Consequently, I cannot sign the report you have drafted. I request that you attach this letter to the report you intend to file with the Court. Additionally, I request that you attach to the report the attached affidavit of David Anderson, TEA General Counsel. I think that a conference with Judge Justice is in order.

Very truly yours,

Merle Hoffman Dover
Assistant Attorney General

Enclosure

cc: Sandy Lowe

01/09/2004 13:21

512-320-7

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA, et al. <i>Plaintiffs,</i> v. STATE OF TEXAS, et al., <i>Defendants.</i>	§ § § § § § §	CIVIL ACTION No. 6:71-CV-5281
---	---------------------------------	-------------------------------

AFFIDAVIT OF DAVID ANDERSON

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

Before me, the undersigned authority, personally appeared DAVID ANDERSON, known to me by and through examination of his Driver's License, who by me being duly sworn, deposed as follows:


"I, DAVID ANDERSON, am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

1. I am the General Counsel of the Texas Education Agency ("TEA") and familiar with the agency's litigation docket. The agency is currently scheduled to participate in a trial before Judge Dietz in Travis County District Court challenging the constitutionality of the Texas School Finance system (*West Orange Cove, et al. v. Alanis, et al.*, Cause No. GV-100528, 250th Judicial District Court, Travis County, Texas). The trial is set to begin July 26, 2004 and continue for approximately four weeks. Although other state agencies are also defendants, the Texas Education Agency will bear the principle burden of defending the state's financing and education accountability systems. Four previous trials challenging Texas's system of school finance (*Edgewood I - IV*) have required virtually all of the agency's capacity to conduct discovery and prepare for trial.
2. TEA may additionally be called on to support a special-called legislative session dealing with school finance within the next six months. Such a session would make significant demands on agency personnel, particularly those parts of the agency that calculate school finance payments to school districts. TEA has also requested that discovery in the *West Orange Cove* case be stayed for the duration of any special legislative session due to those demands. Many of the same personnel involved in discovery related to this case would be involved in responding to discovery in the *West Orange Cove* case and are the same people that would be involved in

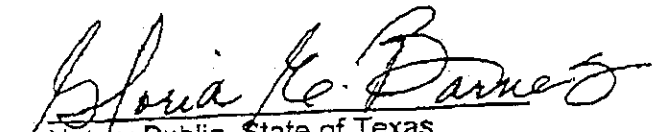
responding to legislative requests.

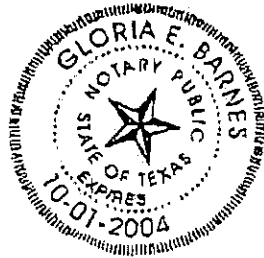
3. School District transfer decisions are typically made in late spring for the school year beginning in August. Although some students transfer throughout the year, a trial at the end of July 2004 is unlikely to affect the majority of transfer decisions made for the 2004-2005 school year. In my opinion, a trial could be held as late as December 2004 and allow school districts and any students wishing to transfer adequate time to respond to a decision in the spring of 2005.
4. TEA respectfully requests that should a special session relating to school finance be held, that discovery in this case be abated during that time period. Additionally, TEA requests that the trial in this matter be scheduled in late fall 2004 so as not to overlap with the West Orange Cove trial.

Further Affiant sayeth not."


DAVID ANDERSON

SUBSCRIBED AND SWORN TO BEFORE ME this 9th day of January, 2004.


Notary Public, State of Texas



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

MAY 3 2004

DAVID J. MAYANO, CLERK

UNITED STATES OF AMERICA, ET
AL.,

Plaintiffs,

v.

STATE OF TEXAS, ET AL.,
Defendants.

§
§
§
§
§
§
§

CIVIL ACTION NO. 6:71-CV-5281

REPORT ON CONFERENCE OF THE PARTIES

1. **Attendees.** Pursuant to FED. R. CIV. P. 26(f), meetings were held on December 18, 2003, January 23, 2004, and March 3, 2004 by telephone conference and were attended by:

Roger D. Hepworth, Henslee, Fowler, Hepworth & Schwartz, for Plaintiff Hearne Independent School District;

Carolyn Hanahan, Feldman & Rogers, for Defendant Mumford Independent School District;

Nancy K. Juren and **Ingrid K. Hansen**, Assistant Attorneys General, for Defendants State of Texas and Texas Education Agency; and

Edward G. Caspar, United States Department of Justice, for Plaintiff United States of America.

2. **Pre-Discovery Disclosures.** The parties have exchanged the information required by FED.

R. CIV. P. 26(a)(1).

3. **Discovery Plan.** The parties jointly propose the following discovery plan:

Discovery will be needed on the following subjects:

- a. information relating to transfers of students to Mumford Independent School District;
- b. information relating to Texas Education Agency's involvement with student transfers of Mumford Independent School District and Hearne Independent School District;

c. other discovery relevant to claims in Original Petition.

All discovery in time to be completed by **September 30, 2004**, by each party to any other party.

Plaintiffs will designate experts by **August 2, 2004**.

Defendants will designate experts by **September 1, 2004**.

4. Other Items.

Plaintiffs should be allowed until **June 2, 2004**, to join additional parties and until **June 2, 2004**, to amend the pleadings;

Defendants should be allowed until **June 14, 2004**, to join additional parties and until **June 14, 2004**, to amend pleadings;

All potentially dispositive motions should be filed by **October 4, 2004**.

The parties have agreed upon a **August 18, 2004**, deadline for mediation.

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due from Plaintiffs by **October 15, 2004**, and from Defendants by **October 15, 2004**.

Parties should have ten (10) days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for trial by **November 1, 2004**, and at this time is expected to take approximately 5 days.

Respectfully Submitted,

ROGER D. HEPWORTH

State Bar No. 09498980

V. JAY YOUNGBLOOD

State Bar No. 22220200

Henslee, Fowler, Hepworth & Schwartz, L.L.P.

916 Congress, Suite 800

Austin, Texas 78701

(512) 708-1804

(512) 708-9037 Fax

COUNSEL FOR PLAINTIFFS

HEARNE INDEPENDENT SCHOOL DISTRICT

DAVID M. FELDMAN

State Bar No. 06886700

CAROLYN HANAHAN

State Bar No. 10617725

Feldman & Rogers

5718 Westheimer Rd.

Houston, Texas 77057

(713) 960-6000

(713) 960-6025 Fax

COUNSEL FOR DEFENDANTS

MUMFORD INDEPENDENT SCHOOL DISTRICT


NANCY K. JUREN

State Bar No. 11059300

INGRID K. HANSEN

State Bar No. 08929727

Assistant Attorney General

General Litigation Division

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

(512) 463-2120

(512) 320-0667 Fax

ATTORNEYS FOR DEFENDANTS

STATE OF TEXAS AND TEXAS EDUCATION AGENCY

JAVIER M. GUZMAN

EDWARD G. CASPAR

U. S. Department of Justice

950 Pennsylvania Ave. NW

Washington, D.C. 20530

(202) 514-4092

(202) 514-8337 Fax

COUNSEL FOR PLAINTIFFS

UNITED STATES OF AMERICA

NINA PERALES

State Bar No. 24005046

DAVID HINOJOSA

State Bar No. 24010689

MALDEF

140 E. Houston, Suite 300

San Antonio, TX 78205

(210) 224-5476

(210) 224-5382 Fax

COUNSEL FOR PLAINTIFFS

LEAGUE OF LATIN AMERICAN CITIZENS

Respectfully Submitted,



ROGER D. HEPWORTH

State Bar No. 09498980

V. JAY YOUNGBLOOD

State Bar No. 22220200

Henslee, Fowler, Hepworth & Schwartz, L.L.P.

916 Congress, Suite 800

Austin, Texas 78701

(512) 708-1804

(512) 708-9037 Fax

Counsel for Plaintiffs

Hearne Independent School District

DAVID M. FELDMAN

State Bar No. 06886700

CAROLYN HANAHAN

State Bar No. 10617725

Feldman & Rogers

5718 Westheimer Rd.

Houston, Texas 77057

(713) 960-6000

(713) 960-6025 Fax

Counsel for Defendants

Mumford Independent School District

Respectfully Submitted,

ROGER D. HEPWORTH

State Bar No. 09498980

V. JAY YOUNGBLOOD

State Bar No. 22220200

Henslee, Fowler, Hepworth & Schwartz, L.L.P.

916 Congress, Suite 800

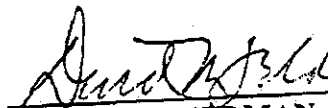
Austin, Texas 78701

(512) 708-1804

(512) 708-9037 Fax

COUNSEL FOR PLAINTIFFS

HEARNE INDEPENDENT SCHOOL DISTRICT



DAVID M. FELDMAN

State Bar No. 06886700

CAROLYN HANAHAN

State Bar No. 10617725

Feldman & Rogers

5718 Westheimer Rd.

Houston, Texas 77057

(713) 960-6000

(713) 960-6025 Fax

COUNSEL FOR DEFENDANTS

MUMFORD INDEPENDENT SCHOOL DISTRICT

NANCY K. JUREN

State Bar No. 11059300

INGRID K. HANSEN

State Bar No. 08929727

Assistant Attorney General

General Litigation Division

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

(512) 463-2120

(512) 320-0667 Fax

ATTORNEYS FOR DEFENDANTS

STATE OF TEXAS AND TEXAS EDUCATION AGENCY



JAVIER M. GUZMAN

EDWARD G. CASPAR

U. S. Department of Justice

950 Pennsylvania Ave. NW

Washington, D.C. 20530

(202) 514-4092

(202) 514-8337 Fax

COUNSEL FOR PLAINTIFFS

UNITED STATES OF AMERICA

Apr-28-04 16:31 From-MALDEF

NANCY K. JUREN

State Bar No. 11059300

INGRID K. HANSEN

State Bar No. 08929727

Assistant Attorney General

General Litigation Division

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

(512) 463-2120

(512) 320-0667 Fax

ATTORNEYS FOR DEFENDANTS

STATE OF TEXAS AND TEXAS EDUCATION AGENCY

JAVIER M. GUZMAN

EDWARD G. CASPAR

U. S. Department of Justice

950 Pennsylvania Ave. NW

Washington, D.C. 20530

(202) 514-4092

(202) 514-8337 Fax

COUNSEL FOR PLAINTIFFS

UNITED STATES OF AMERICA



NINA PERALES

State Bar No. 24005046

DAVID HINOJOSA

State Bar No. 24010689

MALDEF

140 E. Houston, Suite 300

San Antonio, TX 78205

(210) 224-5476

(210) 224-5382 Fax

COUNSEL FOR PLAINTIFFS

LEAGUE OF LATIN AMERICAN CITIZENS